(1) Supreme Court, U.S.
FILED
05-335 JUL 7 - 2005
OFFICE OF THE CLERK

In The Supreme Court of the United States

DON RAY PHINNEY,

Petitioner,

v.

FLORENCE MARIE COOPER,
RUTH JONES, et al.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Don Ray Phinney, Petitioner
Pro se
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July 7, 2005

QUESTIONS PRESENTED FOR REVIEW

1. Whether or not, under judicial immunity, a federal judge can corruptly decide a case before the court by illegally, deliberately, and intentionally falsify and lie about another federal judge's Order by falsely stating that a judge ruled the complaint is "clearly barred" wheras a judge had actually ruled that the said complaint "is not time-barred."

2. Whether or not such an Act committed by a federal judge against another federal judge, thus destroying Petitioner's right to go to trial, in direct violation of the Canons of Judicial Conduct as stated in the ABA Model Code of Judicial Conduct (1990), constitutes a violation of Petitioner's Due Process Rights guaranteed under the Fourteenth Amendment of the Amendment of the U.S. Constitution.

3. Whether or not Petitioner is entitled to go to trial if the trial (with $150 million in alleged damages) was cancelled by a federal judge that falsified and lied about the Order of another federal judge that clearly states that the intent

of the ruling is to allow Petitioner to go to trial.

4. Whether or not federal judges and court personnel can avoid responsibility for their corrupt acts in connection with cases before their courts by hiding behind the cloak of judicial immunity.

LIST OF PARTIES

All parties appear on the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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OPINIONS BELOW

The unpublished opinion of the United States Court of Appeals for the Ninth Circuit is reprinted in the Appendix hereto at Page A-1.

JURISDICTION

The date on which the United States Court of Appeals decided Petitioner's case was on April 8, 2005. The Supreme Court juris-diction is invoked under 28 U.S.C. Section 1254(1).

This petition was filed within (90) days of the judgment of the Court of Appeals.

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

Fourteenth Amendment of the Constitution of the United States:

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the states wherein they reside... No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States...nor

deny to any person within its jurisdiction the equal protection of the laws.

No state...shall deprive any person of life, liberty, or property, without due process of law.

STATEMENT OF THE CASE

On February 5, 2004 Petitioner filed a RICO Complaint alleging that on February 8, 2000 Judge Cooper falsified and lied about Judge Davies prior Order allowing the Petitioner to go to trial in order to cancel the trial and cover up the alleged $150 Million damages to Petitioner and that these damages were caused by the First American Corporation, et al., by stating that Judge Davies ruled that the complaint is "clearly barred" whereas Judge Davies had actually ruled that the complaint "is not time-barred". (Petitioner's Complaint filed 2-5-04, Exhibit B thereto, page 1.)

Petitioner also alleged in the RICO Complaint that on April 15, 2002 U.S. Supreme Court Clerk Ruth Jones forged a document purporting to be from the United States Supreme Court denying the Petitioner's Petition.

However, contrary to the facts and issues in the February 5, 2004 RICO Complaint, which states the Acts occurred between February 8, 2000 and April 15, 2002, (See *Agency Holding Corp. v. Malley- Duff & Assocs.* 107 S. Ct., 2759,2767 (1987)) Judge Feess falsified and lied about the complaint by stating in the Statement Of Fact in

his ruling on July 12, 2004 that the facts and issues occurred "in the late 1960's".

Then, on August 31, 2004, Judge Feess falsified and lied about the complaint by stating in the Statement of Facts in his ruling that the facts and issues occurred "in the early 1970's".

Additionally, the only Respondents involved in the Petitioner's February 5, 2004 RICO Complaint are Florence-Marie Cooper, Ruth Jones, and Does 1 through 10, Inclusive, and no others. However, on July 12, 2004 and August 31, 2004, Judge Feess in the Statement Of Facts states that the alleged facts and issues in Petitioner's complaint occurred by "Kathy Tyrcz".

Clearly, the evidence shows that on July 12, 2004, Judge Feess falsified and lied about Judge Davies Order in order to deprive Petitioner of his right to go to trial with $150 Million in alleged damages, and to cover up the alleged 2002 Act of Ruth Jones and the alleged 2000 Act of Florence Marie Cooper, illegally, under judicial immunity.

In addition, on August 31, 2004, Judge Feess, illegally, under judicial immunity, (See *Mireles v. Waco*, 502 U.S. 9,9-10,112 S. Ct. 116 L. Ed.2d9 (1991), falsified and lied about the facts and

issues in the Petitioner's 2004 complaint in order to prevent Judge Cooper from being exposed at trial in 2004 for falsifying and lying about Judge Davies' Order, in order to cover up the alleged facts and issues in the 2004 RICO Case, causing fundamental rights afforded to all under our system of jurisprudence to be violated.

On October 28, 2004 Petitioner filed an appeal to the United States Court of Appeals for the Ninth Circuit.

On April 8, 2005 the Ninth Circuit denied Petitioner's appeal.

Finally here, on July 7, 2005, Petitioner filed this appeal to the Supreme Court of the United States.

REASONS FOR GRANTING THE PETITION

Petitioner submits, it is clear that the Ninth Circuit Court of Appeals abused it discretion claiming: "Appellees motion for summary affirmance is granted because a review of appellant's opening brief indicates that the questions raised in this appeal are so insubstantial as not to require further argument. See United States v. Hoaton, 693 F.2d 857, 858 (9th Cir.1992) (Per curiam).